

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2345 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KESHA ARJAN

Versus

MORVI VEGITABLE PRODUCT PVT.LT

Appearance:

MR AKIL KURESHI for Petitioners

MR DG CHAUHAN for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/10/1999

ORAL JUDGEMENT

1. Heard learned counsel for the parties.

2. The petitioners - workmen raised industrial dispute through Morvi Majoor General Union against the termination of their services by the respondent - Company as per their case. Before the Labour Court the

respondent - company contested the claim of the petitioners on the ground that they were not workmen of the respondent - company, but they were contract labourer of the Contractor Bhanji Jeraji. The evidence has been led by both the parties before the Labour Court and relying upon the evidence of the workmen, finding of fact has been recorded by the Labour Court that these workmen were not the employees of the respondent - company, but they are contract labourer.

3. In this finding of fact, I do not find any perversity therein which will justify interference of this Court under Article 227 of the Constitution of India. Mr.Kureshi contends that these poor persons were exploited by the Union, that is, their own representative - office bearer of the Union concerned. They have given numerous documents to that person to produce in the Labour Court. In case those documents would have been produced, then certainly finding of fact of the Labour Court would have been otherwise than that of what was recorded. He referred pleadings made in paragraph (I). I have gone through the contents of this paragraph. These are questions of facts and merely because the petitioners chosen to state, it cannot be accepted unless the Court is satisfied that what are stated therein are correct. The Special Civil Application has to be decided by this court on the basis of the affidavits and in this case, the petitioners have not chosen to file an affidavit. Though an affidavit is transcribed on the petition, but it is not affirmed, nor even the name of the deponent is mentioned, nor anybody put signature.

4. Be that as it may. This matter has come from the Legal Aid and if this strict approach is not taken therein, still irrespective of whatever worth of the affidavit, it is hardly of any substance and help to the petitioners. Averments made in this Special Civil Application are verified by the undisclosed deponent on the basis of the information and belief. On such affidavit, otherwise also no reliance can be placed and that too to the extent of the case pleaded by the petitioners that many documents were given by them to the office bearer of the Union to be filed in the Labour Court in evidence. This contention of the learned counsel for the petitioner cannot be accepted.

5. There is another ground on which this petition deserves to be rejected. The award has been passed on 9.2.1983 and this petition is filed in this court on 17.6.1986. For issuance of a writ of certiorari, the petition has to be filed within a reasonable time. Three

years period has been taken in filing of the petition. The petitioners in this petition has not given out any satisfactory explanation for this inordinate long delay. Whatever the explanation furnished is hardly of any substance and help to the petitioners.

6. Taking into consideration the totality of the facts of this case, I do not find any merits in this Special Civil Application. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

(S.K.Keshote,J.)
(pathan)